

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

ORIS SANCHEZ OLIVO,

Defendant.  
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USDC SDNY  
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DOC #:

DATE FILED: 11/3/20

19-CR-484 (KMW)

**ORDER**

KIMBA M. WOOD, United States District Judge:

Defendant Olivo moved, on October 15, 2020, to correct her sentence pursuant to Rule 35(a) of the Federal Rules of Criminal Procedure.

Rule 35(a) provides that, “[w]ithin 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error.” Fed. R. Crim. P. 35(a). Rule 35(a) “is not intended to afford the court the opportunity to reconsider the application or interpretation of the sentencing guidelines[,] or for the court simply to change its mind about the appropriateness of the sentence.” *United States v. Abreu-Cabrera*, 64 F.3d 67, 72 (2d Cir. 1995) (quoting Fed. R. Crim. P. 35, 1991 Advisory Cmte. Note) (emphasis omitted). As such, “Rule 35(a) does not authorize a sentencing court to reconsider either the facts or the sentencing guidelines underlying its originally imposed sentence.” *United States v. Eberhard*, No. 03 Cr. 562 (RWS), 2005 WL 2172031, at \*2 (S.D.N.Y. Sept. 8, 2005); accord *United States v. Goddard*, No. 17 Cr. 439 (LAP), 2018 WL 4440503, at \*1 (S.D.N.Y. Sept. 17, 2018) (same). Rather, “[a] district court’s concededly narrow authority to correct a sentence imposed as a result of ‘clear error’ is limited to ‘cases in which an obvious error or mistake has occurred in the sentence, that is, errors which would almost certainly result in a remand of the case to the trial court for further action under Rule 35(a).’” *United States v. Waters*, 84 F.3d 86, 89 (2d Cir. 1996) (quoting *Abreu-Cabrera*, 64 F.3d at 72).

The Court heard and considered the arguments of counsel, reviewed and considered all of the factors under Section 3553(a), and imposed a below-guidelines sentence free from any “arithmetical, technical, or other clear error” on February 26, 2020. Fed. R. Crim. P. 35(a). Accordingly, Rule 35 does not permit revision of that sentence.

For the foregoing reasons, the Court denies Defendant’s Rule 35 motion.

SO ORDERED.

Dated: New York, New York  
November 3, 2020



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KIMBA M. WOOD  
United States District Judge